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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/922,263	09/02/1997	ROBERT J. CROWLEY	BSME125003	1365

26389 7590 01/19/2007
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
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EXAMINER

SHAY, DAVID M

ART UNIT	PAPER NUMBER
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3735

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

08/922,263

Applicant(s)

CROWLEY, ROBERT J.

Examiner

david shay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on October 25, 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 7, 15, 17, 20-30, 32-44, 47, 48, 52, 53 and 63-65 is/are pending in the application.
- 4a) Of the above claim(s) 20-30, 32-44, 47, 48, 52, 53, 64 and 65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 7, 15, 17, and 63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Applicant has provided no arguments as to the patentability of the amended claims. The examiner notes that the amendments to the claims appear to merely be a description of the structure of the device, however, as the instant claims are method claims, the recitation of structure which does not manipulatively affect the method cannot form the basis for patentability (“To be entitled to weight...structural limitations must affect the method in a manipulative sense, and not amount to the mere claiming of use of a particular structure”, Ex Parte Pfeiffer, 782 O.G. 639, 1962 CD 408). It is further noted that the recitation regarding reflection and concentration lacks antecedent basis in the specification as originally filed.

The amendment filed February 7, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: “to permit reflection and concentration of the sound waves by the inside of the distal wall”.

Applicant is required to cancel the new matter in the reply to this Office Action.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. The following is a quotation of the first paragraph of 35 U.S.C.

112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 5, 7, 15, 17, and 63 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the

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relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally filed disclosure is silent on "to permit reflection and concentration of the sound waves by the inside of the distal wall".

Claims 1, 5, 7, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinofsky in combination with Rosen et al, Deak and the admitted prior art of employing a filter for reducing exposure to undesirable wavelengths. Sinofsky teaches a light applicator with an internally inserted treatment light source and a method such as claimed except for the use of sonoluminescent light. Rosen et al teach the desirability of employing electrical conductors in the place of optical fibers. Deak teaches a laser wherein the output light is generated by sonoluminescence. It would have been obvious to the artisan of ordinary skill to employ the laser of Deak in the method of Sinofsky, since Sinofsky teaches a variety of laser configurations, and since the laser of Deak only requires a few parts and no optical fibers, since only electrical energy need be transmitted through the catheter, which increases energy transmission and does not require matching transmission wavelengths, as taught by Rosen et al, or alternatively to employ the method of Sinofsky in the method of Deak, since this provides a medical application, and in either case it would have been obvious to the artisan of ordinary skill to employ a focusing lens having a flat surface adjacent the wave matching layer and a concave surface adjacent the acoustic conductive medium, as this is just a matter of choice, since the configuration of Deak is equivalent to that claimed, as they both provide a focused beam, thus this particular configuration is not critical and provides no unexpected result; to employ a filter, since this is a notorious device for reducing exposure to undesirable wavelengths, official notice of which has already been taken; and further to employ a wall with a substantially constant diameter and a

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concavely curved distal end, since this is not critical; is well within the skill of one having ordinary skill in the art; provides no unexpected result; and is equivalent to the tapered interior structure to concentrate the acoustic energy density, thus producing a device such as claimed.

Claims 17 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinofsky in combination with Rosen et al, Deak and the admitted prior art of employing a filter for reducing exposure to undesirable wavelengths, as applied to claims 1, 5, 7, and 15 above, and further in view of Putterman et al. Putterman et al teach that the generation of x-rays occurs during sonoluminescence and the use of lead zirconium titanate as a transducer material suitable for producing sonoluminescence. It would have been obvious to the artisan of ordinary skill to employ the transducers of Putterman et al, since these are capable of producing sonoluminescence and Deak teaches no particular transducer material, and because the use of lead zirconium titanate is not critical and produces no unexpected result, thus producing a device such as claimed.

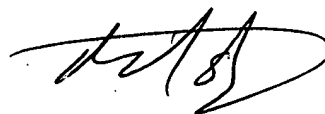
Any inquiry concerning this communication or earlier communications from the examiner should be directed to david shay whose telephone number is (571) 272-4773. The examiner can normally be reached on Tuesday through Friday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II, can be reached on Monday, Tuesday, Wednesday, Thursday, and Friday. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330